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PUBLIC SERVICE  
COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION CONCERNING THE )  
PROPRIETARY OF INTERLATA SERVICES )  
BY BELL SOUTH TELECOMMUNICATIONS, )  
INC., PURSUANT TO THE )  
TELECOMMUNICATIONS ACT OF 1996 )

CASE NO. 2001-105

PREFILED TESTIMONY

OF GREG DARNELL

ON BEHALF OF WORLDCOM

July 9, 2001

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COUNSEL FOR WORLDCOM, INC.

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Greg Darnell, and my business address is 6 Concourse Parkway, Suite 3200, Atlanta, Georgia, 30328.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

A. I am employed by WorldCom, Inc. (formerly known as MCI WorldCom, Inc.) as Regional Senior Manager -- Public Policy.

**Q. HAVE YOU PREVIOUSLY TESTIFIED?**

A. Yes, I have testified in proceedings before regulatory commissions in Alabama, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, as well as before the Kentucky Public Service Commission ("Commission"), and on numerous occasions have filed comments with the Federal Communications Commission ("FCC"). Provided as exhibit GJD-1 to this testimony is a summary of my academic and professional qualifications.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. The purpose of my testimony is to rebut portions of the direct testimony of Ms. Cynthia Cox proffered on behalf of BellSouth Telecommunications, Inc. Specifically I will address BellSouth's compliance with checklist item (ii).

**Q. MS. COX CLAIMS THAT BELLSOUTH HAS MET ITS OBLIGATIONS UNDER CHECKLIST ITEM NO. (ii) (P. 32). HAS BELLSOUTH FULFILLED ITS OBLIGATIONS UNDER CHECKLIST ITEM NO. (ii)?**

A. No.

**Q. WHAT DOES CHECKLIST ITEM NO. (ii) REQUIRE?**

A. Section 271(c)(2)(B)(ii) states that BellSouth must provide "Nondiscriminatory

1 access to network elements in accordance with the requirements of sections  
2 251(c)(2) and 252(d)(1). Section 252(d)(1) requires that the pricing of unbundled  
3 network elements shall be nondiscriminatory, based on the cost (determined  
4 without reference to a rate-of-return or other rate-based proceeding) of providing  
5 the interconnection or network element, and may include a reasonable profit.

6  
7 The FCC established pricing rules for the states on how to interpret the Act's  
8 section 252(d)(1) requirements. The FCC promulgated these pricing rules in  
9 August 1996. *In re Implementation of the Local Competition Provisions in the*  
10 *Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order  
11 (rel. Aug. 8, 1996) ("Local Competition Order"). Despite appeals by BellSouth  
12 and other ILECs, the FCC's authority to promulgate pricing rules was upheld by  
13 the United States Supreme Court. *See AT&T Corp. v. Iowa Utils. Bd.*, 119 S. Ct.  
14 721 (1999). The FCC's pricing rules require that states interpret Section  
15 252(d)(1) of the Act to require that the rates for UNEs to be set at the sum of the  
16 Total Element Long Run Incremental Cost (TELRIC), plus a reasonable  
17 allocation of forward-looking common costs. 47 C.F.R. § 51.505(a). The  
18 TELRIC of a UNE is defined by 47 C.F.R. § 51.505(b) as:

19  
20 (T)he forward-looking cost over the long run of the total  
21 quantity of the facilities and functions that are directly  
22 attributable to, or reasonably identifiable as incremental  
to, such element, calculated taking as a given the  
incumbent LEC's provision of other elements.

23 The particular TELRIC approach taken by the FCC, and made applicable to the  
24 states, as discussed below, is often referred to as the "scorched node" method. 47  
25

1 C.F.R. §51.505 (b) (1) states:

2  
3 Efficient network configuration. The total element long-  
4 run incremental cost of an element should be measured  
5 based on the use of the most efficient  
6 telecommunications technology currently available and  
7 the lowest cost network configuration, given the existing  
8 location of the incumbent LEC's wire centers.

9 This methodology assumes that wire centers will be placed at the ILECs' current  
10 wire centers, but that the rest of the network will be reconstructed assuming the  
11 most-efficient technology for reasonably foreseeable capacity requirements.

12 Local Competition Order ¶ 685. This definition of "forward-looking" adopted by  
13 the FCC assumes existing switch locations as a given, and then, assuming a  
14 hypothetical carrier, "builds out" an interoffice and local network, based on  
15 efficient engineering practices and forward-looking (but currently available),  
16 least-cost technology.

17 By definition, "cost-based" rates must be supported by cost studies proving that  
18 the rates are derived from the forward-looking cost of providing the leased  
19 elements, taking into account the particular circumstances present in each state.

20 The FCC has specifically stated that it expects "a BOC to include in its  
21 application detailed information concerning how unbundled network element  
22 prices were derived." *In re Application of Ameritech Michigan Pursuant to*  
23 *Section 271 of the Communications Act of 1934, as amended, to Provide In-*  
24 *Region, InterLATA Services in Michigan*, CC Docket No. 97-137, Memorandum  
25 Opinion and Order, FCC 97-298 at ¶ 291 (rel. Aug. 19, 1997) (footnote omitted).  
The FCC will reject a 271 application if basic TELRIC principles are violated. *In*

1 *re Application of Verizon New England Inc., Bell Atlantic Communications Inc.*  
2 *(d/b/a Verizon Long Distance), NYNEX Long Distance Company (d//b/a Verizon*  
3 *Enterprise Solutions), And Verizon Global Networks Inc., For Authorization to*  
4 *Provide In-Region, InterLATA Services in Massachusetts, CC Docket No. 01-9,*  
5 *Memorandum Opinion and Order, FCC 01-130 at ¶ 20 (rel. April 16, 2001).*

6  
7 **Q. ARE BELLSOUTH'S CURRENT UNE RATES IN KENTUCKY "COST-BASED" AND IN COMPLIANCE WITH THE ACT?**

8 A. No.

9  
10 **Q. CAN BELLSOUTH BE FOUND TO HAVE MET ITS OBLIGATIONS UNDER CHECKLIST ITEM NO. (ii) IF ITS CURRENT UNE RATES ARE NOT COST BASED AND IN COMPLIANCE WITH THE ACT?**

11  
12 A. No.

13  
14 **Q. PLEASE IDENTIFY HOW BELLSOUTH'S CURRENT UNE RATES ARE NOT COST BASED AND IN COMPLIANCE WITH THE ACT.**

15 A. The current UNE rates in Kentucky fail to meet the act's "cost-based"  
16 requirements in at least the following ways: 1) the current UNE rates for  
17 unbundled loop/port combinations are not based on the least cost most efficient  
18 network design and currently available technology; and 2) the Commission has  
19 not yet finished establishing cost based rates for many of the required UNEs. The  
20 Commission is engaged in an extensive examination of BellSouth's UNE rates in  
21 Case No. 382. That investigation is on-going and is the appropriate forum to  
22 bring BellSouth's UNE rates into compliance with the Act as required by Section  
23 271(c)(2)(B)(ii).

24  
25 **I. LEAST COST MOST EFFICIENT NETWORK DESIGN**

1

2 **Q. WHAT NETWORK DESIGN IS THE CURRENT VOICE GRADE**  
3 **LOOP/ANALOG SWITCH PORT COMBINATION RATES BASED ON?**

4 A. The network design that was used in the determination of the rates for a voice  
5 grade loop when sold in combination with an analog switch port (i.e. "UNE-P")  
6 is based on Universal Digital Loop Carrier technology (UDLC). However, the  
7 least cost most efficient network design for the provision of a voice grade loop  
8 when sold in combination with an analog switch port that is currently available is  
9 Next Generation Integrated Digital Loop Carrier technology (NGDLC). As  
10 such, the current UNE-P rate is based on antiquated technology.

11

12 **Q. HOW DOES THE USE OF ANTIQUATED TECHNOLOGY IN THE**  
13 **DEVELOPMENT OF UNE RATES VIOLATE THE ACT'S COST-**  
14 **BASED REQUIREMENTS?**

15 A. The Act requires UNE rates to be based on cost, without reference to rate of  
16 return or other rate-based proceeding. The FCC has held that this is to be  
17 interpreted as requiring UNE rates to be determined based on the use of the most  
18 efficient telecommunications technology currently available. 47 C.F.R. §  
19 51.505(b)(1). This issue is extensively discussed as part of the evidence in Case  
20 No. 382. The Commission has yet to determine cost based prices for UNE  
21 combinations. The current approved price for a 2-wire voice grade loop  
22 combined with an analog switch port in Kentucky is sum of the stand-alone  
23 analog loop plus the stand-alone analog port. However, it costs less to provision  
24 an analog loop and an analog port in combination than it does to provision a loop  
25 and a port individually. The rate for the stand-alone loop ignores the network  
efficiencies provided by NGDLC. There is no debate that NGDLC is the least

1 cost, most efficient technology to provide voice grade loops combined with  
2 analog switching. As such, the Commission's costing methodology assumed  
3 antiquated technology in the development of the current rate for a voice grade  
4 loop sold in combination with an analog switch port and this is not compliant  
5 with 51.505(b)(1).

6  
7 **Q. WHAT IS THE IMPACT OF THE USE OF ANTIQUATED TECHNOLOGY IN THE DEVELOPMENT OF UNE RATES?**

8 A. The current total rate for a voice grade loop when sold in combination with an  
9 analog switch port drastically exceeds its forward-looking economic cost. While  
10 this problem causes both recurring and nonrecurring rates to exceed forward-  
11 looking economic costs the impact is most pronounced on nonrecurring costs.  
12 For example, the current Commission approved BellSouth nonrecurring charge  
13 for a voice grade loop sold in combination with an analog switch port in  
14 Kentucky is \$70.44. The current approved BellSouth nonrecurring charge for a  
15 voice grade loop sold in combination with an analog switch port in Florida is  
16 \$0.092, in Georgia is \$2.01, in North Carolina is \$2.77 in South Carolina is \$1.59  
17 and in Tennessee is \$1.03. Further, BellSouth has proposed a nonrecurring rate  
18 for a voice grade loop sold in combination with an analog switch port of \$0.19 in  
19 Alabama, Louisiana, Mississippi and here in Kentucky.

20  
21 **III. UNES NOT YET ADDRESSED BY THE COMMISSION**

22  
23 **Q. HAVE COST-BASED RATES BEEN ESTABLISHED FOR THE UNES**  
24 **IDENTIFIED BY THE FCC'S UNE REMAND ORDER?**

25 A. No. The FCC modified the list of UNES that must be provided in its UNE

1 Remand Order. Third Report and Order and Fourth Further Notice of Proposed  
2 Rulemaking *In re: Implementation of the Local Competition Provision of the*  
3 *Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 99-238 (rel.  
4 November 5, 1999) ("UNE Remand Order"). In that Order the FCC interpreted  
5 Section 251(d)(2)'s necessary and impair standards in a manner that expanded the  
6 list of UNEs that ILEC must make available on nondiscriminatory terms and at  
7 cost-based rates. The Commission is currently conducting a proceeding to  
8 address the issues created by the FCC's UNE Remand Order (i.e. Case No. 382).  
9 The Commission has not yet established cost-based rates for the list of UNEs that  
10 were addressed in the FCC's UNE Remand Order. BellSouth will not have  
11 complied with Checklist Item (ii) until cost-based rates have been established for  
12 all of the required UNEs.

13  
14 **IV. NONDISCRIMINATORY ACCESS**

15  
16 **Q. DOES THE ACT REQUIRE BELLSOUTH TO PROVIDE**  
17 **NONDISCRIMINATORY ACCESS TO THE LOOP AND ALL**  
**ATTACHED ELECTRONICS?**

18 A. Yes. Checklist item No. (ii) states that BellSouth must provide  
19 "Nondiscriminatory access to network elements in accordance with the  
20 requirements of sections 251(c)(2) and 252(d)(1)".

21  
22 **Q. DOES BELLSOUTH PROVIDE NONDISCRIMINATORY ACCESS TO**  
23 **ALL CAPABILITIES OF THE LOOP INCLUDING ALL ATTACHED**  
24 **ELECTRONICS?**

1 A. No. BellSouth does not provide nondiscriminatory access to all capabilities of  
2 the loop and all attached electronics. A loop is capable of being split by a line  
3 splitting device into low frequencies channels and high frequencies channels.  
4 When a loop is split in this manner it expands that capability of the loop so that  
5 both voice and data can exist on the same loop. BellSouth uses line-splitting  
6 devices to split loops for itself. BellSouth will provide a line splitting device  
7 to data CLECs. BellSouth will permit line splitting between a voice CLEC  
8 and a data CLEC. Thus, if BellSouth has a line sharing arrangement with a  
9 data CLEC by which BellSouth provides voice service to the customer and the  
10 data CLEC provides digital subscriber line ("DSL") service, and another  
11 CLEC wins the customer's voice business, BellSouth is willing (in principle, at  
12 least) to allow the two CLECs to use the splitter to provide service to the voice  
13 and DSL service to the customer. What BellSouth is *not* willing to do is  
14 permit line splitting between itself and a voice CLEC. In other words, if  
15 BellSouth provides voice and DSL service to a customer, and a CLEC wins the  
16 customer's voice business, BellSouth will not allow the CLEC to use the  
17 splitter and provide voice service using the same line BellSouth uses to provide  
18 DSL service. The end result is that a customer who wants to use BellSouth for  
19 DSL service and a CLEC for voice service must use two separate lines at a  
20 higher cost. As a practical matter, therefore, CLECs will have no realistic  
21 opportunity to provide voice service to customers for whom BellSouth  
22 provides DSL service.  
23  
24  
25

1 BellSouth's failure to provide voice-CLECs with nondiscriminatory access to  
2 line splitters creates an unnecessary barrier to local competitive entry by  
3 preventing voice-CLECs from offering service to certain customers. The  
4 customers that will be sheltered from the benefits of competition by this  
5 discriminatory practice are the growing number of customers that want DSL  
6 services. BellSouth should not be permitted to exercise its monopoly power in  
7 this manner.

8  
9 Before BellSouth can be considered in compliance with Checklist item (ii) it  
10 must provide voice-CLECs with line splitters on nondiscriminatory terms and  
11 conditions and at cost based rates.  
12

13 **Q. HAS THE COMMISSION MADE A DECISION REGARDING LINE**  
14 **SPLITTING?**

15 **A. No.**  
16

17 **Q. IS NONDISCRIMINATORY ACCESS TO LINE SPLITTING AN ISSUE**  
18 **CURRENTLY BEFORE THE COMMISSION?**

19 **A. Yes. Line Splitting is currently before the Commission in Case No. 382.**  
20

21 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

22 **A. Yes.**  
23  
24  
25

**Exhibit GJD-1**

**GREGORY J. DARNELL**  
**PROFESSIONAL EXPERIENCE**

6/21/96 – Date REGIONAL SENIOR MANAGER, WORLDCOM, INC., PUBLIC POLICY.

*Responsibilities: Define MCI's public policy and ensure effective advocacy throughout BellSouth Region.*

9/1/95 - 6/21/96 SENIOR STAFF SPECIALIST III, MCI, NATIONAL ACCESS POLICY.

*Responsibilities: Define MCI's national access policies and educate field personnel. Present MCI's access policy positions to Executive Management and obtain concordance.*

9/1/94 - 9/1/95 SENIOR STAFF SPECIALIST III, MCI, CARRIER RELATIONS.

*Responsibilities: Manage MCI's business relationship with ALLTEL.*

1/1/93 - 9/1/94 SENIOR STAFF SPECIALIST II, MCI, SOUTHERN CARRIER MANAGEMENT.

*Responsibilities: Chief of Staff.*

9/1/91 - 1/1/93 MANAGER, MCI, ECONOMIC ANALYSIS.

*Responsibilities: Testify before state utility commissions on access issues. Write tariff and rulemaking pleadings before the FCC. Serve as MCI's expert on Local Exchange Carrier revenue requirements, demand forecasts and access rate structures.*

1/1/90 - 9/1/91 SENIOR STAFF SPECIALIST I, MCI, FEDERAL REGULATORY.

*Responsibilities: Direct analysis to support MCI's positions in FCC tariff and rulemaking proceedings. Provide access cost input to MCI's Business Plan. Write and file petitions against annual tariff filings and requests for rulemaking. Train State Utility Commissions on the use and design of financial databases.*

1/1/89 - 1/1/90 STAFF SPECIALIST III, MCI, FEDERAL REGULATORY.

*Responsibilities: Track and monitor tariff transmittals for Ameritech, BellSouth, SWBT and U S West. Author petitions opposing RBOC tariff filings. Represent MCI at National Ordering and Billing Forum.*

10/9/87 - 1/1/89 SUPERVISOR, MCI, TELCO COST ANALYSIS.

*Responsibilities: Supervise team of analysts in their review of interstate access tariff changes. Coordinate updates to Special Access billing system.*

**Attachment 5 (CONT)**

1/1/86 - 10/9/87 FINANCIAL ANALYST III, MCI, TELCO COST.

*Responsibilities: Analyze MCI's access costs and produce forecasts.*

6/1/85 - 1/1/86 STAFF ADMINISTRATOR II, MCI, LITIGATION SUPPORT.

*Responsibilities: Support MCI's antitrust counsel in taking depositions, preparing interrogatories and document requests.*

1/1/84 - 6/1/85 PRODUCTION ANALYST, MCI, LITIGATION SUPPORT.

*Responsibilities: Review and abstract MCI and AT&T documents obtained in MCI's antitrust litigation.*

8/1/82 - 1/1/84 LEGAL ASSISTANT, GARDNER, CARTON AND DOUGLAS.

*Responsibilities: Research and obtain information from the FCC, FERC and SEC.*

**EDUCATIONAL EXPERIENCE**

9/1/00 - Date UNIVERSITY OF MARYLAND, GRADUATE SCHOOL OF  
TELECOMMUNICATIONS MANAGEMENT

*Studies: Management Accounting, Public Policy and Network Engineering.*

9/1/91 - 1/1/93 GEORGE WASHINGTON UNIVERSITY, GRADUATE SCHOOL OF  
TELECOMMUNICATIONS.

*Studies: Advanced courses in Public Policy, Electrical Engineering and Economics.*

9/1/78 - 6/1/82 UNIVERSITY OF MARYLAND, B.A., ECONOMICS.

*Studies: Macro and Micro Economics, Statistics, Calculus, Astronomy and Music.*

Certificate of Service

A copy of the foregoing was served this 9<sup>th</sup> day of July, 2001, by first class,  
United States mail, postage prepaid, upon all parties of record.

C. Kent Hatfield  
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